

IN THE SUPREME COURT OF THE STATE OF NEVADA

LAS VEGAS METROPOLITAN
POLICE DEPARTMENT,
Petitioner,

vs.

THE EIGHTH JUDICIAL
DISTRICT COURT FOR THE
STATE OF NEVADA, IN AND FOR
THE COUNTY OF CLARK, AND
THE HONORABLE STEFANY
MILEY, DISTRICT JUDGE,
Respondents,

and

AMERICAN BROADCASTING
COMPANIES, INC.; THE
ASSOCIATED PRESS; CABLE
NEWS NETWORK, INC.;
CHESAPEAKE MEDIA I, LLC,
D/B/A KSNV-TV; LOS ANGELES
TIMES COMMUNICATIONS, LLC;
THE NEW YORK TIMES
COMPANY; SCRIPPS
BROADCASTING HOLDINGS,
LLC D/B/A KTNV-TV; WP
COMPANY LLC D/B/A THE
WASHINGTON POST AND LAS
VEGAS REVIEW-JOURNAL,
Real Parties in Interest.

Electronically Filed
Jun 19 2018 09:08 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

CASE NO.: 76023

DISTRICT COURT CASE NO.:
A764030; A764169-W

REAL PARTY IN INTEREST LAS VEGAS REVIEW-JOURNAL'S
RESPONSE TO PETITIONER'S EMERGENCY PETITION FOR WRIT OF
PROHIBITION PURSUANT TO NRAP 21 AND 27(E)

Margaret A. McLetchie, Nevada Bar No. 10931
Alina M. Shell, Nevada Bar No. 11711
MCLETCHE SHELL LLC
701 East Bridger Ave., Suite 520
Las Vegas, Nevada 89101
Counsel for Real Party in Interest Las Vegas Review-Journal

TABLE OF CONTENTS

NRAP 26.1 DISCLOSURE	1
I. INTRODUCTION.....	2
II. FACTUAL AND PROCEDURAL BACKGROUND.....	5
A. RELEVANT FACTS AND PROCEDURAL HISTORY	5
1. The Media Litigants’ Requests	5
2. Disclosure and Costs Order	5
3. Metro’s Actions After Denial of Stay	7
4. The Contempt Motion and Status Check Motion	14
B. WHAT THE DISTRICT COURT REALLY DID	17
C. APPEAL	18
D. THE INSTANT PETITION	19
III. METRO CANNOT MEET THE LEGAL STANDARD	20
IV. LEGAL ARGUMENT	21
A. The District Court’s Order Does Not Deviate from the Disclosure Orders.	23
B. The District Court Retains Jurisdiction to Oversee Compliance.	24
C. The District Court Did Not Order Metro to Create Any Public Records.	29
D. The District Court Properly Ordered Metro to Produce all the Evidence Logs In Its Possession.	32

///

///

///

///

E.	Despite Having Jurisdiction to Preside Over a Contempt Hearing, the District Court Did Not Rule on the OSC Motion.....	33
1.	Recusal Was Unnecessary Where the District Court Declined To Rule On The Contempt Motion.	33
2.	The Court Only Ordered Relief to Enforce the Disclosure Order.	34
V.	CONCLUSION	34
	CERTIFICATE OF COMPLIANCE.....	36
	CERTIFICATE OF SERVICE	38

NRAP 26.1 DISCLOSURE

The undersigned counsel of record certifies that the following are persons and entities as described in NRAP 26.1(a) that must be disclosed. These representations are made in order that the justices of this Court may evaluation possible disqualification or recusal.

Real Party in Interest the Las Vegas Review-Journal is a Delaware corporation registered in the State of Nevada as a foreign corporation. The Las Vegas Review-Journal does not have any parent company, and no publicly held corporation owns ten percent or more of the Las Vegas Review-Journal's stock.

The law firm whose partners or associates have or are expected to appear for the Las Vegas Review-Journal is MCLETCHIE SHELL, LLC.

DATED this the 18th day of June, 2018.

/s/ Margaret A. McLetchie

Margaret A. McLetchie, Nevada Bar No. 10931

Alina M. Shell, Nevada Bar No. 11711

MCLETCHIE SHELL LLC

701 East Bridger Ave., Suite 520

Las Vegas, Nevada 89101

Counsel for Real Party in Interest Las Vegas Review-Journal

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

In this action under the Nevada Public Records Act (the “NPRA”), the district court issued two key orders designed to facilitate transparency about the response of Petitioner Las Vegas Metropolitan Police Department (“Metro”) on 1 October and uphold the terms and stated intent of the NPRA. The first order (the “Disclosure Order”) (1 PA 72-78)¹ requires Metro to produce records to the media entities (the “Media Litigants”) who asked the court for relief; the second order (the “Costs Order,”² together with the Disclosure Order, the “Production Orders”) drastically limits the costs Metro can charge to produce those records and mandates that Metro provide cost estimates in advance of production. After this Court denied its Emergency Motion for a Stay, Metro now asks this Court to enjoin the district court from issuing an order it never issued. Thus, Metro’s Emergency Petition for Writ of Prohibition (“Petition”) must be denied on that basis alone.

Further, Metro’s Petition is a thinly-veiled attempt to avoid having to comply with the Production Orders and to immunize itself from accountability in district court. The genesis of the current dispute is Metro’s refusals to comply with the

¹ Throughout this brief, Petitioners’ Appendix is cited to by volume number followed by Bates-stamped page numbers. Citations to the Review-Journal’s Respondent’s Appendix will follow the same format.

² (2 PA 463-471.)

Production Orders despite its failure to obtain a stay. Indeed, Metro has not provided records directly to the Media Litigants or their counsel; instead, Metro has chosen to spitefully undermine the Media Litigants' journalistic efforts by making the very records at issue in this litigation generally available to the public.

Not only has Metro refused to provide the records directly to the Media Litigants, it has also failed to comply with numerous other aspects of the Production Orders and has refused to provide information to the Media Litigants about the records at issue. Metro has also taken the position that, while it is now releasing the records at issue in this litigation to the general public for no charge (and despite the fact that it has failed to comply with the Costs Order's requirements with regard to advance estimates of costs), the Media Litigants should ultimately (and solely) be collectively responsible for paying Metro anywhere between \$233,750.00 and \$458,159.00. (1 PA 88; *see also* 2 PA 375; 2 PA 464.) Metro has also publicly lamented the great expense it asserts is associated with production of the records, and the associated burdens on staffing.³ Yet, Metro, as evidenced in its Petition, is also taking the absurd position that it must produce each and every responsive record—despite the fact that the Media Litigants may be able to narrow the scope of production. Moreover, due to the procedural history of the case (namely Metro's litigation delay tactics), the parties never had the opportunity to have issues

³ (3 PA 606.)

pertaining to production addressed at a status check conference. Accordingly, the Review-Journal filed its Motions for an Order to Show Cause and for a Status Check (the “Contempt Motion” and “Status Check Motion”) seeking district court assistance in resolving the issues at hand.

At the hearing on the Contempt Motion and Status Check Motion, the district court took a very simple initial step: it ordered Metro to provide records in its possession that reflect the responsive records. As detailed below, Metro’s spin on the actions of the district court do not reflect reality, as both the transcript and the resulting June 13, 2018 written order (the “Status Check Order”)⁴ evidence. Metro’s Emergency Petition seeking to restrict the district court from taking such measures is thus much ado about nothing. The district court did not do what Metro said it did. Metro’s Emergency Petition is essentially an assertion that Metro should not be accountable to anyone. Metro is not, in fact, above the law—the district court necessarily has the ability to monitor Metro’s compliance with the Production Orders. Again, this Court denied Metro’s Emergency Motion for a Stay—and the mere fact that Metro has pursued an appeal does not divest the district court of jurisdiction to continue to enforce the orders at hand. Therefore, this Court should deny Metro’s Petition.

///

⁴ (6 PA 1157-1162.)

II. FACTUAL AND PROCEDURAL BACKGROUND

A. RELEVANT FACTS AND PROCEDURAL HISTORY

1. The Media Litigants' Requests

Although Metro describes most of the Media Litigants' requests (Petition, pp. 6-9), it omits that the Review-Journal also requested recordings of 911 calls for service received on October 1, 2017 between 8:00 p.m. and 2:00 a.m. between the 3800 and 4000 blocks of South Las Vegas Blvd. (1 PA 51-52.) Another reporter for the Review-Journal also sent a separate request for any and all 911 calls relating to the shooting at the Route 91 Harvest Music Festival. (1 PA 54.)

2. Disclosure and Costs Order

On March 2, 2018, the Court entered the Disclosure Order granting the Media Litigants' NPRA petitions in their entirety and ordering supplemental briefing from the parties regarding what fees the NPRA permits Metro to charge for production of the requested records. (1 PA 72-78.) The Disclosure Order imposed the following obligations regarding production and compliance:

- Metro must “immediately begin producing public records” on a “rolling basis” as they soon as they are ready for disclosure “without unnecessary delay” (1 PA 76);
- Metro “shall exercise the utmost good faith in producing the public records on a timely basis” (*id.*);
- Metro “shall make any and all public records subject to this proceeding available at Metro’s office for review by the [Media Litigants],

particularly where production of those public records is either too burdensome or impossible otherwise” (*id.*);

- Metro and the Media Litigants must “meet and confer” to resolve issues with public records “that may be highly confidential” or difficult to redact (*id.*);
- A status check was set for March 7 for the parties to discuss what “has and has not been produced” (*id.*), to give the parties “an opportunity to explain whether there has been good faith communication regarding the production” (1 PA 77), and to allow the Court to “hear any objections with respect to the delay in disclosure or the need for more time” (*id.*); and,
- The parties must produce a status report “covering what has and has not been produced” pursuant to the Disclosure Order within 30 days (1 PA 76.)

On March 7, 2018, the district court heard argument from the parties regarding the fees and costs Metro could charge the Media Litigants under the NPRA. (1 RA 1.) At that hearing, the Court directed Metro to meet and confer with the Media Litigants to identify the scope of materials that would be responsive to the record requests, and to consider if there were initial documents that Metro could produce. (*Id.*)

On March 9, 2018, the district court entered and noticed another order pertinent to the records request, the Costs Order. (2 PA 463-471.) Although Metro insinuates that the Costs Order made the Media Litigants responsible for all the costs of production (*see* Petition, p. 16), the Costs Order actually sharply delineated which production costs Metro could charge the Media Litigants, and which costs it is barred

from charging. The Costs Order partially denied Metro's request to charge fees for the production of some records but permitted Metro to charge certain fees for the production of certain responsive public records. The district court summarized the permissible costs Metro could charge the Media Litigants as follows:

Evidence Logs, and Interview Reports: COPY COSTS of 31 cents per page, plus an additional 50 cents for extraordinary services, for a total of 81 cents.

Body Cams, and 911 Calls: COPY COSTS - meaning only the actual costs to reproduce the records onto the medium for transfer, and the cost of such medium (such as DVD, CD, flash drive, hard drive, etc.).

Dispatch Logs: PRE-COPY PREPARATIONS, meaning actual cost to gather, discuss, supervise and insure quality control, as part of the effort to comply with the [Media Litigants'] request.

(2 PA 470.) The district court also specifically required Metro to begin its production of records to the Media Litigants within three business days from the date of the Costs Order and ordered Metro to do so on a rolling basis as the records became available. (*Id.*) The district court also required Metro to provide the Media Litigants with an estimate of the allowable fees outlined in the Costs Order within three business days from the date of the Order. (*Id.*)

3. Metro's Actions After Denial of Stay

Metro accuses the Review-Journal of filing the Contempt Motion and Status Check Motion because it "[r]efus[es] to recognize" that Metro is allegedly required to produce all the requested records. (Petition, p. 13.) Metro ignores that there would

be nothing preventing the parties from working to avoid unnecessary burdens on Metro's staff. Metro also fails to acknowledge the real reason the Review-Journal filed the motions, which the other Media Litigants joined: Metro's contumacious refusal to comply with the plain terms of the Production Orders, even after this Court denied its motion for a stay pending appeal.

As detailed in the Contempt Motion and Motion for Status Check, the Media Litigants have faced significant hurdles in obtaining meaningful access to the records produced by Metro. (*See* 3 PA 510-517.)

First Record Dump: May 2, 2018 (BWC Footage)

After the district court's entry of the Production Orders and this Court's denial of Metro's request for a stay pending appeal, counsel for the Media Litigants repeatedly inquired regarding the timing and cost of production. (*See* 3 PA 510-513 (summarizing communications; *see also* 3 PA 564-609 (email communications).) Although counsel for Metro indicated its first production would consist of body-worn camera ("BWC") footage, counsel for Metro failed to respond to multiple email inquiries from counsel for the Review-Journal regarding, *inter alia*, when and where the records would be available. (3 PA 570-603 (multiple inquiries sent from Review-Journal counsel to counsel for Metro).)

Meanwhile, Metro held a press conference on May 1, 2018 announcing that it would make the BWC footage of two entry team officers available to any media

entity on May 2, 2018. (3 PA 605-607.) During the press conference, Metro Sheriff Joe Lombardo noted that producing the public records requested by the Media Litigants would be expensive and time consuming.⁵ However, the costs Sheriff Lombardo complained of are a self-created burden. The Media Litigants have tried repeatedly to work with Metro to limit the scope of production and thereby reduce costs for all parties. Rather than working with the Media Litigants to facilitate access to the requested records as directed by the district court, Metro has simply refused to communicate regarding what records are in its possession or the timing for releasing those records.

Second Record Dump: May 16, 2018 (Voluntary Statements)

On May 14, 2018, counsel for the Review-Journal emailed counsel for Metro inquiring about the status of the next round of production. (3 PA 675.) This email went unanswered. Jackie Nichols, counsel for Metro, represented in person to counsel for the Review-Journal on May 15, 2018 that she had no information about when Metro would be producing any additional records. (3 PA 539-540.) Counsel for Metro likewise failed to respond to a subsequent email requesting information regarding when additional records would be produced. (3 PA 677.) Instead, following Metro's pattern of refusing to coordinate with the Media Litigants as mandated by the district court, Metro's Public Information Office sent out an email

⁵ See *supra*, n. 3.

blast (presumably to everyone on its automated press email list) after the close of business on May 15, 2018 (at 5:12 p.m.). (3 PA 679-680.) The email stated that any member of the media could go to Metro’s headquarters and obtain DVDs of certain records at issue after 12:00 p.m. on May 16, 2018. (3 PA 680.)⁶

After happening to learn of the email blast, counsel for the Review-Journal emailed counsel for Metro to express her concerns about lack of notice to the Media Litigants’ counsel, and the fact that Metro was making the records generally available to the media and not directly to the Media Litigants. (3 PA 682.)

Third Record Dump: May 23, 2018 (Voluntary Statements, CAD reports, and Officer Reports)

At 1:44 p.m. on May 22, 2018, counsel for Metro emailed counsel for the Media Litigants, indicating that “documents will be ready for you to pick up tomorrow at noon, Building B of Headquarters.” (1 RA 23.) In response to inquiries from the undersigned, counsel for Metro indicated that the release consisted of approximately 2,000 pages of documents and that it would be a general release, rather than a production to the Media Litigants. (1 RA 25.)

On the evening of May 22, 2018, Metro circulated a press release to announce the planned May 23, 2018 release of the documents. (1 RA 29-30.) This email went

⁶ That Metro is making the records available to any media entity simultaneously with the Media Litigants—not just other media entities who have made NPRA requests—is notable in light of the fact that Metro has argued its record dumps are designed to comply with other NPRA requests.

to dozens of media entities that were not parties to the instant litigation, without regard to whether they had even made any NPRA requests. (*Id.*)

Fourth Record Dump: May 30, 2018 (Videos)

In that same press release that it announced the May 23, 2018 production, Metro outlined the procedures it intended to enact for a production of documents on May 30, 2018. (1 RA 30.) Metro indicated in the press release that any “interested parties” would be required to deliver a “128 GB flash drive, USB 3.0, in a factory sealed package, to LVMPD Headquarters Building B located at 400 South Martin Luther King Boulevard” no later than 10:00 a.m. on Tuesday, May 29, 2018 “in order to receive the records” on May 30, 2018 at noon. (*Id.*) Counsel for Metro had not indicated in any of its May 22, 2018 correspondence with the counsel for the Media Litigants that Metro had planned to make the May 30, 2018 production. The May 30, 2018 record dump consisted of three videos: one filmed from the sky on October 2, 2017 and two filmed from separate, fixed positions on the Strip between October 1 and October 2, 2017.⁷

Fifth Record Dump: June 6, 2018 (Videos and 911 Calls)

On May 30, 2018, Metro sent a mass media blast to dozens of email addresses reminding them of the May 30 release of records. (1 RA 32-33.) The media list

⁷ <https://www.reviewjournal.com/crime/shootings/las-vegas-police-release-more-video-from-oct-1-shooting-site/> (last accessed June 18, 2018).

included entities that are not Petitioners, and it was not clear that everyone listed made a public records request. In that same media blast, Metro stated that the deadline for submitting a flash drive for the next general release of documents was Monday, June 4, 2018 by 10:00 a.m. (*Id.*) Metro's media blast did not indicate when the next release of documents would be made, nor did it indicate *what* documents Metro intended to release. On June 6, 2018, Metro generally released surveillance video from the Mandalay Bay, and over 500 audio recordings of 911 calls.⁸

Sixth Record Dump: June 13, 2018 (Body Camera Footage and 911 Calls)

On June 13, 2018, Metro released another batch of records to the general public in the form of additional BWC footage from officers who responded to the 1 October incident and additional 911 calls.⁹ Because the release did not contain any information regarding the identity of the officers who uploaded the BWC footage that was produced, a reporter with the Review-Journal contacted Metro's Public Information Office to ask for the officers' names.¹⁰ Counsel for Metro then sent the following email to the undersigned counsel:

I was just informed that your client, including Rachel Crosby and several other reporters from the LVRJ, reached out to our PIO Office

⁸ See <https://www.reviewjournal.com/crime/shootings/surveillance-video-shows-frantic-flight-during-las-vegas-shooting/> (last accessed June 18, 2018); <https://www.reviewjournal.com/crime/shootings/police-release-first-911-calls-from-las-vegas-shooting/> (last accessed June 18, 2018.)

⁹ See <https://www.reviewjournal.com/crime/shootings/newly-released-footage-follows-officers-through-las-vegas-shooting/> (last accessed June 18, 2018.)

¹⁰ The undersigned also unsuccessfully tried to obtain the same information.

regarding officer names for the body worn camera footage. As I indicated in my previous email, this issue is currently before the Supreme Court and not required by the Disclosure Order. Please have your clients refrain from contacting our client on this issue, in addition to any other subject matter involving this litigation and the Disclosure Order. Should your client have any issues with the production of records subject to the Disclosure Order, it can go through counsel and not our client directly. Should your client continue to contact LVMPD directly regarding the instant case, we will seek judicial intervention.

(1 RA 87.) Thus, rather than cooperating in good faith about productions, Metro is threatening reporters who ask questions about the records it is producing.

This type of behavior by Metro in connection with productions reveals that not only are the Media Litigants not receiving the records directly via counsel, as should be the case in light of the fact that this matter is in litigation, the Media Litigants are in fact in a worse position than media entities who did not litigate and may not have even sought records. Metro's counsel did not indicate Metro would seek similar "judicial intervention" if any other media entity requested the same information. Instead, when counsel for the Review-Journal asked if other media entities were similarly barred from asking any questions about the sixth records dump (1 RA 88) counsel for Metro replied that

... you, as well as the other Petitioners, are subject to the Court's jurisdiction as parties to the instant action. The issue of list of officers is currently stayed by the Supreme Court. As such, your clients are violating the Court's order by continuing to press the issue despite the Order staying [Judge] Miley's ruling.

(1 RA 90.) Contrary to this contention, this Court's order temporarily staying the Status Check Order does not bar the Media Litigants or their counsel from asking

questions about the records received, or for information that is missing from file names.

Accordingly, counsel for the Review-Journal responded to counsel for Metro to express her confusion and dismay with Metro's threat to take legal action against the Review-Journal's reporters for asking questions, noting that this Court's Order "does not act as a gag order" and that the reporters were within their rights to ask questions about the latest production, particularly given Metro's general refusal to communicate with the Media Litigants about the productions and Metro's decision to make records generally available rather than providing them directly to the Media Litigants through counsel. (1 RA 92.)

As this example reflects, Metro and its counsel have been unwilling to provide basic information about the records it is producing. Further, by refusing to comply with the Production Orders and instead making the records generally available through a separate process than this litigation, Metro has set up an untenable situation for the Media Litigants: a general production process that is not in compliance with the Disclosure Orders and disadvantages the Media Litigants.

4. The Contempt Motion and Status Check Motion

On May 18, 2018, after the Media Litigants' repeated attempts to work with Metro to ensure compliance with the Production Orders failed, the Review-Journal filed its Contempt Motion and Status Check Motion to seek judicial assistance with

the multiple issues described above. (3 PA 496-4 PA938 (motion and exhibits).) The other Media Litigants subsequently filed a joinder to the motions. (4 PA 939-942 (joinder).)

Metro characterizes the Review-Journal’s motion as an effort to modify the Production Orders. (Petition, p. 13.) However, as the Review-Journal made clear in its Contempt Motion and Status Check Motion and at the May 29, 2018 hearing, all it seeks is that the district court address Metro’s noncompliance with the Production Orders. In addition to requesting the court direct Metro to produce existing lists of records, the Media Litigants also requested the district court address several other issues with Metro’s noncompliance:

Issue Raised by the Review-Journal	Support for Review-Journal’s Requests for Relief in the Production Orders
Metro’s failure to produce records within three business days of the entry of the Costs Order (post-denial of stay)	2 PA 470 (“Metro must begin its production of the records to the Media within three (3) business days from the date of this Order.”)
Metro’s failure to provide cost estimates in advance	2 PA 470 (“Metro must provide the Media with an estimate of the allowable fees that are charged to the Media . . . within three (3) business days from the date of this Order”)
Metro’s over-redaction of records	1 PA 76 (portion of Disclosure Order mandating that “Metro shall produce the public records on a rolling basis, as public records are appropriately redacted and available for disclosure, without unnecessary delay”)

Issue Raised by the Review-Journal	Support for Review-Journal's Requests for Relief in the Production Orders
Metro's lack of good faith in releasing records, including its decision to produce records in a disorganized manner and unusable format	1 PA 76 (portion of Disclosure Order directing Metro to "exercise the utmost good faith in producing the public records on a timely basis")
Metro's failure to meaningfully meet and confer with the Media Litigants	1 PA 76, 77 (requiring the parties to provide the court with a report "covering what has and has not been produced" to be presented at a status conference, and requiring that at the conference, the parties must "explain whether there has been good faith communication regarding the production")
Metro's failure to produce the requested records directly to the Media Litigants	1 PA 76 (portion of Disclosure Order granting the petitions "in their entirety" and requiring Metro to "begin producing public records responsive to the public records request at issue in the Petitions"); <i>see also</i> Nev. Rev. Stat. § 239.011(1) (permitting a requester to seek an order from the court (a) permitting the requester to inspect the requested records, or (b) requiring the person with legal custody or control of the requested records to provide a copy to the requester).

Despite the mandates of the Production Orders (and common sense), Metro essentially takes the position in its Petition that it can unilaterally produce records and refuse to confer with the Media Litigants or provide the district court with information about its productions. The district court's Disclosure Order, however, clearly contemplates that the parties are supposed to meet and confer regarding

productions, and that the district court is supposed to supervise those productions.

B. WHAT THE DISTRICT COURT REALLY DID

Metro asserts that the district court acted in excess of its jurisdiction by “entering an order that affects prior District Court Orders currently on appeal.” (Petition, p. 2.) Metro also asserts that the district court “order[ed] LVMPD to create a public record.” (*Id.*) The district court, however, did neither. Instead, it merely asked for copies of existing records to assist in determining compliance issues and working to reduce costs and taxpayer burdens.¹¹

Indeed, in its Status Check Order (PA 6:1157-1162), the district court specifically stated that it “decline[d] to entertain [the Review-Journal’s] Motion for Contempt” and was instead entering the Status Check Order to “to effectuate Judge Scotti’s Disclosure Order as economically and efficiently as possible.” (6 PA 1158.) To that end, the district court ordered Metro “to produce ***already existing documentation*** that details what public records are currently in its possession” that are responsive to the Media Litigants’ records requests. (*Id.*) (emphasis added). The district court then outlined the types of documentation Metro should provide for each

¹¹ This was a particular concern for the district court during the May 29, 2018 hearing: “Ultimately, the monies Metro is spending do come from the taxpayer coffers, and so I think that there should be a concern by a public agency of utilizing the public monies in the best way possible which means not fighting, not taking contrary positions, not fighting things needlessly, doing things as efficiently and as expeditiously as possible.” (PA 5:1006; *see also id.* (noting that “it’s the taxpayers who ultimately suffer” the costs of Metro’s actions).)

category of documents. (6 PA 1158-59.) For each category of documents, the district court ordered Metro to produce “existing list[s]” for those documents. (*Id.*) The district court also required Metro to provide “a certification identifying any categories of documents requested within the original public records request that are subject to production as a result of the operative orders but where no responsive documents exist.” (6 PA 1159.)

The district court reiterated that it was not modifying the Production Orders or requiring Metro to create any new records: “This Court does not order or otherwise require Metro to create any new document, record, or other list relating to the public records and categories thereof Metro’s obligations are not expanded but rather limited to Judge Scotti’s March 2, 2018 and March 9, 2018 Orders.” (6 PA 1159.)

C. APPEAL

On March 30, 2018, Metro filed a notice of appeal. (3 PA 472-474.) The Review-Journal filed a notice of cross-appeal on April 13, 2018. (3 PA 493-495.) Metro vaguely contends that the district court’s status check order “affects” the orders pending on appeal. (Petition, pp. 2, 3, 17, 18.) However, this contention is belied by the docketing statement Metro filed with this Court on April 25, 2018. *See* Case No. 75518 at Docket No. 18-15838. In its docketing statement, Metro listed eight issues on appeal. *See id.* at p. 5. None of those eight issues are affected by the

district court's Status Check Order, which again is intended to "effectuate Judge Scotti's Disclosure Order as economically and efficiently as possible." (6 PA 1158.)¹²

D. THE INSTANT PETITION

On June 6, 2018, Metro filed its Petition with this Court. That Petition challenged oral orders issued by respondent the Honorable Judge Stefany Miley in a May 29, 2018 hearing. On June 11, 2018 this Court issued an Order Directing Entry of Written Order, Directing Answer, and Imposing Stay (the "Supreme Court Order"). The Supreme Court Order mandated that, *inter alia*, (1) Respondent district court enter a written order reflecting the challenged ruling; and (2) Real Parties in Interest serve an answer, including authorities, against the issuance of the requested writ. (Supreme Court Order, p. 2.) On June 13, 2018, the district court entered the Status Check Order, which reflects and clarifies its May 29, 2018 oral orders. (6 PA 1157-1162.) Pursuant to this Court's Order, Real Party in Interest the Review-Journal now submits the instant response to Metro's Emergency Petition.

///

///

¹² The Status Check Order also does not affect the primary issues the Review-Journal identified in its cross-appeal. (See Case No. 75518, Docket No. 18-22049, p. 5.)

III. METRO CANNOT MEET THE LEGAL STANDARD

Metro is correct that “[p]etitions for extraordinary writs are addressed to the sound discretion of the Court and may only issue where there is no ‘plain, speedy, and adequate remedy at law. (Petition, p. 5 (citing Nev. Rev. Stat. § 34.330 and *State ex rel. Dep’t of Transp. v. Thompson*, 99 Nev. 358, 360, 662 P.2d 1338, 1339 (1983)).) Further, Metro correctly points out that extraordinary relief is warranted only “where circumstances reveal urgency or strong necessity.” (*Id.*, (citing *Jeep Corp. v. Dist. Ct.*, 98 Nev. 440, 443, 652 P.2d 1183, 1185 (1982).) Metro “has the burden of demonstrating that this court’s extraordinary intervention is warranted.” *Corp. Bishop, LDS v. Seventh Jud. Dist. Ct.*, 366 P.3d 1117, 1119, 132 Nev. Adv. Op. 6 (2016) (citing *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004))).

Metro has not and cannot demonstrate that this Court’s extraordinary intervention is warranted. As explained at length below, Metro is not entitled to emergency relief because Judge Miley’s June 13 Status Check Order merely seeks information from Metro so the district court can properly oversee compliance with the Production Orders—orders which have not been stayed. Indeed, Metro’s Petition attempting to tie the district court’s hands in overseeing compliance with the Disclosure Order is nothing more than an improper second bite at a stay. Moreover, Metro has not and cannot establish that extraordinary relief is warranted because, in

light of the fact that the Status Check Order does none of the things Metro imagines it does, the “Emergency” Petition is an improper attempt to seek advisory opinions from this Court.

Finally, the purpose of the general legal rule Metro exclusively relies on—that an appeal divests a district court of jurisdiction—is designed to promote judicial efficiency. Divesting the district court of jurisdiction to supervise records production would not promote judicial efficiency. Instead, it would only serve to create confusion and further delay meaningful production of records regarding 1 October. Metro has not—and cannot—show that barring the district court from enforcing the Production Orders (which is essentially what Metro seeks) promotes judicial efficiency and warrants the extreme remedy it seeks. If this Court is concerned about the district court proceedings continuing during the pendency of Metro’s appeal (and the Review-Journal’s cross-appeal), the appropriate remedy would be a stay.

IV. LEGAL ARGUMENT

The district court’s Status Check Order shows that Metro has no grounds for emergency relief. Therefore, this Court must deny Metro’s Petition. Further, this Court should not countenance Metro’s efforts to needlessly multiply the costs of compliance with the district court’s orders and this litigation and to evade accountability for its failure to comply with the orders in good faith. In light of the fact that this Court has explicitly denied a stay of the Production Orders, the district

court can and should act as necessary to enforce those orders. Moreover, it need not enforce the orders in a manner that produces absurd—and expensive—results. For example, Metro on the one hand publicly laments the fact that compliance with the Production Orders is expensive and burdensome while on the other, contends that the Media Litigants and district court cannot seek to streamline production and litigation by limiting the volume of records at issue.

Metro's end game is clear. Contrary to the blatant misrepresentation in its Petition that the district court ordered the Media Litigants to pay the costs at issue, the district court largely rejected Metro's demands for exorbitant sums to produce records. (*See generally* 3 PA 467-471.) However, Metro has appealed that order and is set on ensuring that the costs of production are as high as possible in the hopes that it wins on appeal and can force the Media Litigants to pay as much as possible for its decision to make the records generally available to all. Metro has amply demonstrated the lengths it will go to in order to avoid working with the Media Litigants to reduce costs. Metro is also determined to stymie transparency and render the production of records in this case as useless to the Media Litigants as possible. For example, as detailed above, Metro has refused to provide the records at issue directly to the Media Litigants and has refused to tell reporters or counsel the names of the officers that correspond to the BWC footage it has produced.

The Production Orders mandated that Metro exercise the “utmost good faith”

in producing records (1 PA 76), and the district court can and should act to ensure that Metro starts doing so. This Court should reject Metro’s improper attempt to use the process for a writ of prohibition to continue to evade transparency and accountability.

A. The District Court’s Order Does Not Deviate from the Disclosure Orders.

As Metro itself points out, at the hearing on the Contempt Motion and Status Check Motion, “the District Court only ruled on one issue...” (Petition, p. 15.) Indeed, exercising its inherent authority to oversee compliance with orders that have not been stayed, all the district court did was ask Metro to produce lists in its possession, custody and control (6 PA 1158-1159), and provide a certification regarding records Metro’s counsel now contends it does not have (6 PA 1159-1160), and schedule a further status check. (6 PA 1161.)

With regard to the lists of records, as detailed below, Metro was required to provide this information within five (5) days of receiving the pertinent requests. *See Nev. Rev. Stat. § 239.0107(1)*. It never did, and it is entirely appropriate to now require a certification.

Rather than modifying the Production Orders, the district court’s Status Check Order enforces the existing provisions of the orders. The Disclosure Order outlined specific responsibilities for Metro and the Media Litigants in the production of the requested records. Among other things, the district court ordered Metro to “exercise

the utmost good faith in producing the public records on a timely basis.” (1 PA 76.) The district court also ordered the parties to prepare a report “covering what has and has not been produced” pursuant to the Disclosure Order, which the district court would review at a status conference. (*Id.*) At that status conference, the district court ordered that the parties “shall have an opportunity to explain whether there has been good faith communication regarding the production” of records. (1 PA 77.) In its Costs Order, the district court also established specific responsibilities for Metro, including an obligation to begin production of records within three business days from the entry of the Costs Order (2 PA 470), and provide the Media Litigants with “an estimate of the allowable fees that are charged to the Media [Litigants]” within three days from the entry of the Costs Order. (*Id.*) The district court’s Status Check Order does not modify these requirements; it simply directs Metro to actually comply with those requirements. (6 PA 1159.)

Accordingly, Metro’s arguments that the Status Check Order and the additional relief sought in the OSC Motion and Status Check Motion exceed the scope of the Production Orders fail.

B. The District Court Retains Jurisdiction to Oversee Compliance.

In asserting that the District Court lacks jurisdiction to oversee compliance with the Production Orders or to take any action that “affects the District Court’s

prior Orders that are currently pending on appeal”¹³ (whatever that means), Metro appears to be taking the position that it is not accountable to anyone. This is not the case. The district court can, and should, intervene as necessary to ensure Metro meaningfully complies with the Production Orders. This Court denied Metro’s Emergency Motion for a Stay; it necessarily follows that the district court can and should exercise jurisdiction over the Production Orders.¹⁴

Metro does not cite any authority for the proposition that the district court has no jurisdiction over orders that have been appealed but have not been stayed. Instead, Metro hangs its hat on the general rule that a notice of appeal divests the district court of jurisdiction. However, that rule is not absolute, as a number of courts have explained. *See Masalosalo v. Stonewall Ins. Co.*, 718 F.2d 955, 956 (9th Cir.1983)¹⁵; *Hoffman for & on Behalf of N.L.R.B. v. Beer Drivers & Salesmen’s Local Union No. 888, Int’l Bhd. of Teamsters, Chauffeurs, Warehousemen & Helpers of Am.*, 536 F.2d 1268, 1276 (9th Cir. 1976).

¹³ (Petition, p. 3.)

¹⁴ If the district court did not have jurisdiction over orders that are appealed but not stayed, Nev. R. App. P. 8 would be rendered meaningless.

¹⁵ This Court looks to federal case law for interpretation of analogous procedural rules. *See Exec. Mgmt., Ltd. v. Ticor Title Ins. Co.*, 118 Nev. 46, 53, 38 P.3d 872, 876 (2002) (“Federal cases interpreting the Federal Rules of Civil Procedure ‘are strong persuasive authority, because the Nevada Rules of Civil Procedure are based in large part upon their federal counterparts.’”) (quoting *Las Vegas Novelty v. Fernandez*, 106 Nev. 113, 119, 787 P.2d 772, 776 (1990)).

The purpose behind the general rule against concurrent jurisdiction is judicial efficiency; it necessary follows that a district court has continuing jurisdiction, despite an appeal, if exercising that jurisdiction promotes judicial efficiency. As the Ninth Circuit has explained:

This rule [that a district court is divested of jurisdiction over the matters being appealed] is judge-made; its purpose is to promote judicial economy and avoid the confusion that would ensue from having the same issues before two courts simultaneously. [] The principle of exclusive appellate jurisdiction is not, however, absolute. []. The district court retains jurisdiction during the pendency of an appeal to act to preserve the status quo. []

Nat. Res. Def. Council, Inc. v. Sw. Marine Inc., 242 F.3d 1163, 1166 (9th Cir. 2001) (citations omitted). Where appropriate to promote judicial efficiency, a district court even has continuing jurisdiction to modify orders:

...the general rule [that an appeal to the circuit court deprives a district court of jurisdiction as to any matters involved in the appeal] is not a creature of statute and is not absolute in character. It is our opinion that the rule should not be applied in those cases where the district court, as here, has a continuing duty to maintain a status quo, and where, as the days pass, new facts are created by the parties and the maintenance of the status quo requires new action. ...We believe the rule should be, and we so hold that, in the kinds of cases where the court supervises a continuing course of conduct and where as new facts develop additional supervisory action by the court is required, an appeal from the supervisory order does not divest the district court of jurisdiction to continue its supervision, even though in the course of that supervision the court acts upon or modifies the order from which the appeal is taken.

Hoffman for & on Behalf of N.L.R.B. v. Beer Drivers & Salesmen's Local Union No. 888, Int'l Bhd. of Teamsters, Chauffeurs, Warehousemen & Helpers of Am., 536

F.2d 1268, 1276 (9th Cir. 1976).

Indeed, the Nevada Rules of Civil Procedure specifically allow the district court to exercise its jurisdiction to maintain the status quo during the pendency of certain appeals. *See Nev. R. Civ. P. 62(c)* (“When an appeal is taken from an interlocutory or final judgment granting, dissolving, or denying an injunction, the court in its discretion may suspend, modify, restore, or grant an injunction during the pendency of the appeal upon such terms as to bond or otherwise as it considers proper for the security of the rights of the adverse party.”).

As these cases explain, and the Nevada statute authorizes, where continuing supervisory action by a district court is necessary and promotes judicial efficiency, the district court necessarily has jurisdiction. Accordingly, even if Metro were correct that the district court exceeded its jurisdiction and acted outside the Production Orders, the district court can and should continue to exercise its supervisory authority to ensure that Metro follows the Production Orders in a sensible manner. This is exactly one of the “kinds of cases where the court supervises a continuing course of conduct” and where the course of conduct by Metro requires “additional supervisory action by the court” as contemplated in *Hoffman*. Thus, “an appeal from the supervisory order does not divest the district court of jurisdiction to continue its supervision, even though in the course of that supervision the court acts upon or modifies the order from which the appeal is taken.” *Hoffman*, 536 F.2d at

1276.

Here it is both necessary and appropriate for the district court to retain jurisdiction and supervisory authority over the Production Orders. This is especially so because this Production Orders have not been stayed, and Metro's intransigence with regard to compliance with the Production Orders require the district court keep a watchful eye over Metro's behavior. Metro's position to the contrary simply attempts to evade accountability and does not promote judicial economy.

Further, there is a simple solution to ensure that the district court maintains its authority to ensure Metro's compliance with the Production Orders. This Court has the inherent power to exercise its discretion and stay appellate proceedings until production is complete. *See Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936) ("the power to stay proceedings is incidental to the power inherent in every court to control the disposition of causes on its docket with economy of time and effort for itself, for counsel, and for litigants."). By staying appellate proceedings in this case until production is complete, this Court could address the purported concerns raised by Metro and promote judicial efficiency.

Finally, while its appeal could have remained justiciable despite having failed to establish that a stay pending appeal was warranted, Metro's own actions have in fact rendered its appeal moot. It cannot simultaneously make general productions of records available to the public at large for no charge and continue to assert on appeal

that the records are not public records—or that the Media Litigants should be ultimately responsible for any costs.¹⁶ Thus, Metro’s appeal is moot. “[A] controversy must be present through all stages of the proceeding [] and even though a case may present a live controversy at its beginning, subsequent events may render the case moot.” *Personhood Nevada v. Bristol*, 126 Nev. 599, 602–03, 245 P.3d 572, 574 (2010) (citations omitted). Accordingly, it would be especially inappropriate to hamstring the district court from enforcing the Disclosure Orders on the facts of this case.

C. The District Court Did Not Order Metro to Create Any Public Records.

In contending that the district court required it to produce “public records,” Metro both misconstrues the district court’s actions and conflates the question of the records that can be sought pursuant to the NPRA with the question of whether the district court can obtain information from Metro to assess and streamline compliance with the Production Orders. It is correct that a governmental entity is not required to create a record in response to public records requests. However, as detailed above,

¹⁶ Moreover, despite the plain requirements of the Costs Order, Metro has failed to provide cost estimates to the Media Litigants in advance of producing records (2 PA 470 (“Metro must provide the Media with an estimate of the allowable fees that are charged to the Media, consistent with this Order, within three (3) business days from the date of this Order”).) By failing to comply with the Cost Order, Metro has waived any ability to seek costs. This further moots Metro’s appeal.

it is entirely incorrect that the district court cannot seek information from Metro about compliance.

As Judge Miley’s Status Check Order explains, the district court “does not order or otherwise require Metro to create any new document, record, or any other list relating to the public records and categories thereof enumerated in paragraph 5 and its subparts. Metro’s obligations are not expanded but rather limited to Judge Scotti’s March 2, 2018 and March 9, 2018 Orders.” (6 PA 1159.) The Status Check Order merely requires Metro to certify “any categories of documents requested within the original public records request that are subject to production as a result of the operative orders but where no responsive documents exist.” (*Id.*)

Certification is not, as Metro claims, an attempt to make Metro “prove a negative.” (Petition, p. 22.) Furthermore, Metro’s assertion that “[n]othing in the NPRA requires a governmental entity to create a certification explaining that the requested records do not exist” (*id.*) is inaccurate. Nev. Rev. Stat. § 239.0107(1)(b)(1) explicitly mandates that a governmental entity provide notice of the fact that it does not have legal custody or control of a requested record within five business days of receiving a public records request. It is impossible for a governmental entity to have legal custody or control of nonexistent records. Thus, certifying that a requester’s query returns no responsive records is an appropriate response under Nev. Rev. Stat. § 239.0107(1)(b). It is also entirely appropriate under

the Production Orders.

As the Status Check Order further explains, “[a]ny and all Certification that Metro is ordered to produce is consistent with the production obligations outlined in the operative orders, as a certified response indicating the non-existence of responsive documents would itself be a sufficient response to the original public records requests and consistent with the intent of the operative orders.” (6 PA 1160.)

Even if this Court has “established that the NPRA does not require a governmental entity to create records in response to NPRA requests” (Petition, p. 22 (citation omitted)), certifying that a request returns no responsive records is no more “creating a public record” than emailing counsel or responding to a NPRA petition. Given Metro’s gamesmanship throughout this litigation, such certification is essential to determining whether Metro is in compliance with the Production Orders. Indeed, there is already some evidence that Metro has refused to disclose potentially responsive records in defiance of the Disclosure Order. (*Compare* 3 PA 554 (Letter in which LVMPD Counsel stated “LVMPD did not utilize emergency purchase orders or no-bid contracts as a result of the 1 October Incident”) to 1 RA 51 (AviSight invoice dated 10/3/17 and obtained in response to additional requests (1 RA 37)).) As this reveals, it is entirely appropriate for the district court to require a certification to address issues regarding production.

///

D. The District Court Properly Ordered Metro to Produce all the Evidence Logs In Its Possession.

Metro is required by the March 2, 2018 Order granting the Amended Public Records Act Petition to disclose any existing evidence logs in its possession. (1 PA 76 (district court’s finding that the public records sought includes “evidence logs”).) Metro’s contention that the district court’s Status Check Order requires more than that is incorrect on its face. The district court’s Status Check Order requires Metro, pursuant to its existing obligations under the Disclosure Order, to provide “any existing [evidence log] within Metro’s possession, custody, or control.” (6 PA 1159;¹⁷ *see also* 1 PA 76.) Metro argues that the order is in error because the FBI generated the evidence logs at issue in this case and requiring disclosure of FBI documents is outside the scope of the Disclosure Order. (Petition, pp. 22-24.) Metro’s analysis is flawed for two basic reasons. First, the Status Check Order only requires Metro to produce evidence logs its possession, custody, or control. If Metro has the document (and they have not disputed having this document in their possession and control), it is part of the investigation file for this case. Metro asserts in its Petition that it “does not have an evidence log as the FBI led the criminal investigation.” (Petition, p. 23.) However, Metro has not said it does not have a **copy**

¹⁷ (Ordering that “[f]or any evidence logs not already produced to [the Media Litigants], Metro is to provide the Court and [the Media Litigants] any existing lists within Metro’s possession, custody, or control.”)

of any such evidence log. Metro's attempt to play semantics games aside, disclosure of any evidence log is expressly part of the Disclosure Order. The district court was entirely within its jurisdiction to compel production of this document.

Moreover, to the extent Metro is now attempting to challenge the propriety of the disclosure of the evidence log on other grounds, they are attempting to separately litigate an issue that is already the subject of Metro's appeal in this case. As Metro's requested stay was denied and the long-overdue production of public records regarding 1 October was to go forward during the pendency of the appeal, Metro cannot now argue that underlying Disclosure Order requiring it to produce evidence logs is improper.

E. Despite Having Jurisdiction to Preside Over a Contempt Hearing, the District Court Did Not Rule on the OSC Motion.

1. Recusal Was Unnecessary Where the District Court Declined To Rule On The Contempt Motion.

As a foundational issue, the district court expressly declined to rule on the Review-Journal's contempt motion. Therefore, none of Metro's articulated concerns are even ripe for consideration by this Court. The Status Check Order plainly states:

Despite this Court having jurisdiction to hold a contempt proceeding . . . this Court declines to entertain Plaintiff's Motion for Contempt.

(6 PA 1158) (emphasis added). Thus, whether Judge Miley declined Metro's request to recuse herself is irrelevant because she declined to entertain the merits of the Review-Journal's Contempt Motion. Had the district court decided that contempt

proceedings were appropriate—a course the district court could still take given Metro’s conduct in this case—Judge Miley would have ensured that another judicial officer presided over any trial on the contempt charge. *See McCormick v. The Sixth Judicial Court*, 67 Nev. 318, 218 P.2d 939 (1950). Where the district court made no ruling on the Contempt Motion, recusal was unnecessary. Metro’s argument on this point is therefore baseless.

2. The Court Only Ordered Relief to Enforce the Disclosure Order.

Following the May 29 hearing, the district court’s Status Check Order directed Metro to produce a variety of existing documents within its possession and control, consistent with its jurisdiction under the Disclosure Order. (6 PA 1158-1159.) The district court did not mandate these productions under the Contempt Motion, or otherwise grant the Contempt Motion (6 PA 1158), holding instead that the productions were meant to effectuate the existing Disclosure Order “as economically and efficiently as possible.” (*Id.*) The Court did not need to make any finding on the Review-Journal’s OSC Motion to enforce the existing Disclosure Order. Accordingly, Metro’s arguments fail.

V. CONCLUSION

Metro would have this Court reverse an order that the district did not make, and improperly seeks to immunize itself from accountability for non-compliance

with orders that this Court has ***already determined*** should not be stayed.
Accordingly, the Petition is much ado about nothing and must be denied.

DATED this 18th day of June, 2018.

/s/ Margaret A. McLetchie

Margaret A. McLetchie, Nevada Bar No. 10931

Alina M. Shell, Nevada Bar No. 11711

MCLETCHE SHELL LLC

701 East Bridger Ave., Suite 520

Las Vegas, Nevada 89101

Counsel for Real Party in Interest Las Vegas Review-Journal

CERTIFICATE OF COMPLIANCE

Pursuant to Nev. R. App. P. 2:

I hereby certify that this brief complies with the formatting requirements of Nev. R. App. P. 32(a)(4), the typeface requirements of Nev. R. App. P. 32(a)(5) and the type style requirements of Nev. R. App. P. 32(a)(6) because the REAL PARTY IN INTEREST LAS VEGAS REVIEW-JOURNAL'S RESPONSE TO PETITIONER'S EMERGENCY PETITION FOR WRIT OF PROHIBITION PURSUANT TO NRAP 21 AND 27(E) has been prepared in a proportionally spaced typeface (14 point Times New Roman font).

I further certify that this REAL PARTY IN INTEREST LAS VEGAS REVIEW-JOURNAL'S RESPONSE TO PETITIONER'S EMERGENCY PETITION FOR WRIT OF PROHIBITION PURSUANT TO NRAP 21 AND 27(E) complies with the type-volume limitation of Nev. R. App. P. 28.1(e)(2)(C) because it contains 8,431 words.

///

///

///

///

///

///

///

I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

DATED this 18th day of June, 2018.

/s/ Margaret A. McLetchie

Margaret A. McLetchie, Nevada Bar No. 10931

Alina M. Shell, Nevada Bar No. 11711

MCLETCHIE SHELL LLC

701 East Bridger Ave., Suite 520

Las Vegas, Nevada 89101

Counsel for Real Party in Interest Las Vegas Review-Journal

CERTIFICATE OF SERVICE

I hereby certify that the foregoing REAL PARTY IN INTEREST LAS VEGAS REVIEW-JOURNAL'S RESPONSE TO PETITIONER'S EMERGENCY PETITION FOR WRIT OF PROHIBITION PURSUANT TO NRAP 21 AND 27(E) was filed electronically with the Nevada Supreme Court on the 18th day of June, 2018. Electronic service of the foregoing document shall be made in accordance with the Master Service List as follows:

Craig R. Anderson, Nick D. Crosby, and Jackie V. Nichols
MARQUIS AURBACH COFFING
Counsel for Petitioner,
Las Vegas Metropolitan Police Department

Joel E. Tasca and Justin A. Shiroff
BALLARD SPAHR LLP
Counsel for Real Parties in Interest,
American Broadcasting Companies, Inc., The Associated Press, Cable News Network, Inc., Chesapeake Media I, LLC, d/b/a KSNV-TV, Los Angeles Times Communications, LLC, The New York Times Company, and WP Company LLC d/b/a The Washington Post

///

///

///

///

///

///

///

I further certify that on the 18th day of June, 2018, a true and correct copy of the REAL PARTY IN INTEREST LAS VEGAS REVIEW-JOURNAL'S RESPONSE TO PETITIONER'S EMERGENCY PETITION FOR WRIT OF PROHIBITION PURSUANT TO NRAP 21 AND 27(E) was sent by First Class Unites States mail to the following:

*The Honorable Judge Stefany Miley
Eighth Judicial District Court, Dept. XXIII
200 Lewis Avenue, Twelfth Floor
Las Vegas, Nevada 89155
Respondent*

/s/ Pharan Burchfield
Employee of McLetchie Shell LLC